

REMARKS

Claims 1 – 14 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

The applicants thank the examiner for indicating the allowability of claims 1 – 7.

Claims 8 – 14 were rejected under 35 USC 112, second paragraph, as being indefinite. However, the office action notes that claim 8 – 14 would be allowable if claim 8 is rewritten or amended to overcome the rejection under 35 USC 112, second paragraph. Claim 8 specifically stands rejected under 35 U.S.C. §112 second paragraph as being as being indefinite, for the reasons stated in the office action. Although the basis for the rejection is respectfully questioned in the comments below, the claims have been amended to improve clarity.

The claims are rejected due primarily to an alleged lack of clarity. A rejection under section 112, second paragraph requires that A) claims set forth subject matter applicants regards as the invention; and B) claims particularly point out and distinctly claim the subject matter of the invention. Since A) relies on subjective interpretation, B) necessarily forms the objective basis for a rejection under this paragraph. Item B) requires an inquiry into the definiteness of the claim, e.g. whether the scope of the claim would be clear to a person of ordinary skill in the art (MPEP 2171).

Applicants submit that since the claims would have been clear to one of ordinary skill in the art as written, an objection would have been a more appropriate means to address clarity issues. Since the phrase “radiating, from a radar,” refers to radiating waves from a radar, the recitation “detecting, in the radar” in the claim would be clearly understandable to one of

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ordinary skill as indicating that the waves are detected by the radar. Thus the rejection is improper under 35 U.S.C. §112 second paragraph.

Without acknowledging the propriety of the rejection, applicants have amended claim 8 to improve the clarity thereof. Accordingly claim 8 has been amended as to matters of form only to address the Examiner's specific concerns relating to clarity and not for reasons related to patentability. Thus the scope of claim 8 has not been narrowed within the meaning defined in Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 535 U.S. 722 (2002).

In view of the forgoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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